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w to Make Your Will

BY

LLIAM HAMILTON OSBORNE
OF THE NEW YORK BAR

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HOW TO MAKE YOUR WILL

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By
WILLIAM HAMILTON OSBORNE
Of the New York and New Jersey Bars

Author of
"The Catspaw," "The Running Fight,"
"The Boomerang," etc.

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HOW TO MAKE YOUR WILL

HOW TO MAKE YOUR WILL

EVERY rich man, every poor man, ought to make his will. This assertion will seem strange and unwarranted to a good many people, particularly to those to whom the word "estate" means a large property. The making of a will is assumed to be the business of those who, when they die, expect to leave a good deal of wealth behind them. It seems a superfluity in the case of the man who has only a pittance to dispose of. As a matter of fact, to a rich man a will is merely a luxury, a convenience; his estate can get along without it. To the man of moderate means it is an absolute necessity. Let us look at it.

John Doe is a struggling individual, too poor by far to have his will drawn: at least that's what he thinks. He dies unexpectedly. He dies without a will. He leaves, we'll say, a wife, and a child under age. He owns at the time of his death, say, five hundred dollars in a savings bank, and a lot on which some day he hoped to build, — a lot worth perhaps another five hundred. So we'll put John Doe's estate down at one thousand dollars, half realty, half personalty.

The Difficulties Begin

Don't forget that he dies without a will. His wife finds herself in a position where she needs to draw on the savings bank account: perhaps she'll need it all. She finds herself in a position where it is advisable to sell the vacant lot.

When John Doe dies her first legal step is to take out letters of administration. To do this she must give a bond in double the amount of the personal estate; that is, she must furnish a one-thousand-dollar bond. This bond must be filed with the probate office. It must be signed by two individuals, each of whom owns real estate equal in value to at least double the amount of the bond.

So her first actual step is to go to some of John's friends and ask them to go on her bond. Does she want to ask any of his friends to go on her bond? She does not. (Perhaps, too, he had no friends; perhaps she and John were strangers in a strange land.) However, suppose she screws her courage up and asks them, will they con-

sent? To sign a bond means to assume liability. To go on her bond means that they severally guarantee that she will dispose of the estate according to law. To dispose of it legally means that she must first pay debts, and that the balance belongs one-third to herself and two-thirds to her child.

Assume that they go on her bond. Suppose, then, that she takes a notion to draw the five hundred dollars from the bank and go South to her old home, without the slightest regard to her legal obligations. The sureties on her bond would be liable to the creditors to the extent of at least five hundred dollars. However, if they do go on her bond, well and good. If they won't—why, she has another alter-

native. There are surety companies. A surety company will furnish a bond for, say, ten dollars a year or so. But it will protect itself: it will take charge of the five hundred dollars in such manner that she can dispose of the five hundred dollars *only* according to law.

Cost of Getting the $500

This means that her privilege to use the money at the very period when she most needs it — that is, immediately following the death of John Doe — is seriously curtailed. The surety company, to protect itself, must see that creditors are paid, that the infant's share is held intact, that the law is satisfied. It may require her to have her accounts legally settled at the end of a year. It may require her to have herself appointed guardian of the

child — and to do that she would again have to give a bond.

Don't get it into your head that the surety company is an ogre. It performs a much-needed service. Today an administratrix without friends can always get a bond. Fifty years ago she couldn't.

Widow Can't Sell the Real Estate

So far, you perceive, we have addressed ourselves only to John Doe's five-hundred-dollar bank account, his personal estate. But we are not through with the estate of the man who did not leave a will. There is his building lot. His wife needs the money on it. She wants to sell it. Can she? She cannot. Why? Because she doesn't own it. And an administratrix deals only with personalty. Her interest in it as John's widow is merely the income of one-third

of it for life. The lot belongs to the child. Can the child sell it? The child cannot. Why not? Because the child is under age.

Is there no remedy? There is. The law furnishes the remedy. After being appointed guardian of the child, with bonds, the wife of John Doe may then apply to the court on the child's behalf, and ask the court for leave to sell the lot. The court takes testimony, investigates, satisfies itself of the necessity and the advantages of a sale, — always considering only the child's interest,—and finally orders a sale.

Such is the experience of John Doe's widow after John has died without a will. You may figure out for yourself the legal expense of the various proceedings out-

lined. How much has come out of John's thousand dollars to pay for this expense? It is fair to say that two hundred and fifty dollars, or one-quarter of John's entire estate, would not be an unusual or remarkable deduction. The amount of work involved would be just as much as though John Doe had left ten thousand dollars. And John Doe's wife and child lose the two hundred and fifty. They are that much out of pocket; to say nothing of the worry, the delay, the interminable anxiety, the detail, the correspondence, the interviews, the explanations, apologies, nightmares.

A Good Will for $25

Is the will a poor man's institution? Let us see. Is it a necessity to the man of moderate means? Let us take the case of Richard Roe.

Richard Roe made his will. Probably he paid a lawyer ten dollars for drawing it, possibly twenty-five dollars. He provided in his will that his wife should be executrix, with power of sale and without bonds. And then, having done this sane and safe act, Richard Roe, in due course, died.

His wife — probably without a lawyer — took the will and the two witnesses to the probate office. It was probated. If she employed a lawyer, it certainly cost her no more than it cost Mrs. John Doe to take out letters of administration, and probably not so much. Mrs. Richard Roe gives no bond. She is not beholden to Richard's friends, nor does she pay the fee of a surety company, nor is she under its surveillance.

She gets her letters testamentary, goes to the bank, and draws the money. She pays the debts. If it be important for herself and the child to go back home to California, she goes — and uses the necessary funds. If she wants to sell the lot, she sells it, under her power of sale. Practically she doesn't have to account, because, if she be the sole legatee and devisee in the will, — and Richard made her such, — she's the only person interested in the estate. It is actually possible — assuming that she has a ready customer — to reduce the entire estate to cash inside of a month. And when that is done that ends it. She's got it. She can do what she likes with it. And her expenses haven't amounted to fifty dollars.

Costs $250 not To Make A Will

Net result: John Doe neglected to make a will, probably because it would cost him ten dollars, and the family couldn't afford it. His failure cost his wife easily two hundred and fifty dollars, and turned her hair prematurely gray.

Richard Roe made his will, paid for it like a man, and saved his wife two hundred dollars or so in cash, and about five thousand dollars' worth of worry.

The rich man doesn't need a will nearly so much as does John Doe. Why? Because the legal expense of administering the rich man's estate — even with many complications — may be a mere drop in the bucket as compared with the bulk of the estate. At any rate, nobody feels it. What practical difference does a deduc-

tion of five thousand dollars make in an estate of one hundred thousand dollars? But John Doe's estate would be wiped out by a charge one-fifth as large as that.

John Doe didn't know that the making of a simple will — such as Richard Roe left behind him — is the simplest thing in the world.

How to Draw Your Will

John Doe isn't dead yet, by the way, and we'll do something for John. We'll make his will right now — and we'll show him how and why we make it as we do. Here, then, is a simple sample of a perfectly good and valid will:

All my estate I devise and bequeath to my wife, for her own use and benefit forever, and hereby appoint her my executor, without bonds, with full power to sell, mortgage, lease, or in any other

manner to dispose of the whole or any part of my estate.

Dated May 1, 1917.

JOHN DOE. (Seal.)

Subscribed, sealed, published, and declared by John Doe, testator above named, as and for his last will, in presence of each of us, who, at his request, in his presence, in presence of each other, at the same time, have hereto subscribed our names as witnesses this May 1, 1917, at the City of New York.

THOS. NOAKES, 5 East 5th Street, Boro. Manhattan, N. Y. City.
OLIVER STILES, 3 East 5th Street, Boro. Manhattan, N. Y. City.

That will does everything for Mrs. John Doe that Richard Roe's will did for Richard's wife. It seems simple, doesn't it? And if John will follow the directions contained in this discussion, — *if he will follow the directions*, — he

can make just as good a simple will as any lawyer can make for him. But he must obey orders, particularly when he comes to *execute* his will.

To John Doe, perhaps, the foregoing sample will seems without form and void. He misses the solemn introduction, "In the name of God, amen!" He misses the testamentary asseveration, "Being of sound mind, memory, and understanding." He doesn't find any suggestion as to the uncertainty of life. The familiar word "heirs" is missing; so is the word "testament." Probably everything is missing that John thinks essential, and if we left John Doe to his own devices, he would probably supply all the aforesaid missing phrases, and — leave out

everything else. But all these are non-essentials. The essentials will be found in the sample will cited heretofore.

John Takes In Hand A Pen

Now for John's instructions: Let John sit down at his convenience with a sheet of any kind of paper, and let him take in hand a pen. Let him write out the first clause set forth — he can do it alone. Nobody need see him do it. He doesn't have to mention in it that it is his last will and testament — not in the body of the will. He doesn't have to mention his child. He doesn't have to detail his property. He doesn't have to give his child anything — popular opinion to the contrary notwithstanding. "All my estate" conveys all that he will leave — everything. It is wise to use "de-

vise and bequeath," because the word "devise" applies to real estate and "bequeath" to personalty. And, by the way, let John be sure, if he use the word "personalty," not to spell it "personality." But he won't use it: he doesn't have to. The term "without bonds" explains itself, of course.

Now, having written out everything in the first clause, John may also write underneath it, at the extreme right hand, the word "Seal" or the letters "L. S." (*locus sigilli*), "place of the seal." He doesn't have to attach a real seal unless he so desires.

The Attestation Clause

But he must not sign it yet. Still in his closed room, let him add the second clause, the clause for the witnesses. This is known as

the "attestation clause," and is to be signed by them. This clause is, to the lawyer's way of thinking, of vital importance; but as a matter of fact it need not be added, if the formalities are all observed, and if the memories of the witnesses later serve them well. However, it should never be omitted. Reread that clause, and you will find that it contains scarcely a superfluous word. Watch the instructions here given and compare them with the clause, and you will see that they tally.

Having written out his will and the clause below it, John calls in two neighbors, or in some States three — he calls them into the room where he is himself. These neighbors may be anybody, but

should not be persons interested in the will as legatees or devisees. If he were to give Tom Noakes a legacy of one hundred dollars, and Tom Noakes were witness to the will, and after Doe's death were compelled to testify to its execution, he would lose his legacy. That is why neighbors are suggested as witnesses. They are not usually legatees.

The scene is now set. In the room together are John Doe, the testator, and the two or three proposed witnesses. It is not necessary that the witnesses should read the will. They have nothing to do with the contents of the will — nothing whatever.

John Doe, having laid down his pen to call his neighbors, now takes it up again. They look on.

John fills in the date. He then signs his name opposite the seal. Legally he *subscribes* his name, which means that he signs at the end of the will. That first clause is his will. He signs at its end. The word "seal" or "L. S." takes care of the "sealing" referred to in the attestation clause. Follow the attestation clause and see that John does this right.

One Slip May be Fatal

Having thus *subscribed* and *sealed* his will, while the two are with him in the room and while they are looking on, John now makes two vital utterances, without which a will is absolutely void. Follow this carefully. He says to his two witnesses, "This is my last will," and then adds to them, "I want you to sign as witnesses."

He must declare it to be his will,

and he must ask them to sign as witnesses. If he fail in that, his will is absolutely void. You now see that he has declared it as his last will. He has done it in presence of his witnesses. He has requested them to sign as witnesses. He has done his part.

The Witnesses "Do Their Bit"

It is now up to them. They, then, when he is still present, and they are both present, sign their names as witnesses and add their addresses. Of course, it is not possible for all to sign literally "at the same time"; but that phrase in the attestation clause indicates merely that the execution of the will takes place practically as one transaction. The testator waits until both sign. Noakes waits until Stiles is through. He doesn't rush out as soon as he has signed

his own name. Let all three remain present until the trick is done.

The net result, — John Doe has made a valid will.

At any rate, his will will serve for the great majority of States in the Union. Add three witnesses instead of two, and physically affix a seal, and it is good generally throughout the United States. Doe has made his will, and it hasn't cost him a cent.

It is wise for the witnesses to read the "attestation clause," and to charge their minds with the fact that it is true, — that they followed all its detail in the execution of the will.

Having made his will, John Doe naturally expects to drop dead next day. As a matter of fact, he

probably lives for years. A well-known old practitioner down on Wall Street — upon the occasion of the execution of a will — invariably addresses his client thus:

"You know, Sir, the making of your will is really life insurance; the best life insurance, really, that you can obtain."

If the Witnesses Die

Therefore, since his neighbors Noakes and Stiles have underwritten him in the aforementioned manner, John Doe doesn't die at once. When he does die, a queer thing happens, possibly. Noakes and Stiles have totally forgotten that they ever witnessed John Doe's will. Maybe one of them is dead and the other can't remember. But say they are both living, and neither can remember — what then?

Is Doe's will void because they can't remember? Not at all. The law — statute law in some States, decisions in others — says they don't have to remember — nor, in fact, do they have to live. There is the advantage of the attestation clause. The attestation clause was built for witnesses who cannot remember or who do not live. And when, on Doe's death, Noakes and Stiles appear at the probate office and scratch their heads, all they have to do is to recognize their signatures, then be able to swear respectively that the name Noakes was signed by Noakes and the name Stiles by Stiles. The law does the rest. The law says it will presume that the statement contained in the attestation clause is correct, and it probates John

Doe's will. And if the witnesses be dead, it takes proof of the correctness of their signatures and of John's.

John's Various Desires

But John may have children, since he has a wife; he may have, further, friends as well as neighbors. The form of will above may not meet all of his desires; it may be good so far as it goes, but it may not go far enough. He may be blessed with more worldly goods than we have assumed he is, and he may be of generous disposition. Before he goes further, however, let him turn to the tail end of this little book and note the warning there subscribed. Bearing that in mind, he may turn back again, and note, at this point, what further he may safely do — remembering, however, all that has gone before.

Let him remember that while the words "bequest" and "bequeath" apply technically to gifts of personal property or money, and the like, and the word "devise" to real estate, the word "give" applies to both; he need not bother his head to remember the terms more technical.

All gifts of specific articles, specific sums of money, specific pieces of real estate, should precede the final disposition of the residue. Once having disposed of the residue of his estate, it is bad form for John to slip in a few little gifts that he's forgotten. Let us, without further parley, prepare the more prosperous John Doe's will as he might like to have it drawn:

I, John Doe, residing at Borough of Manhattan, make my last will as follows, hereby revoking all former wills:

1. To my partner, George Westinghouse Smith, I give my diamond scarf pin.

2. To my clerk, William B. Pound, I give the sum of one hundred dollars.

A Full Pause

(A full pause here, with a bit more parley. John has a sister. His first duty is to his wife and child. But he wants to leave his sister something. He has saved up fifteen thousand dollars and is still going strong. He won't die for years. He thinks he'll leave three thousand dollars to his sister. He's going to make a will that he'll put away and forget about, as a good job done. So, scanning the two clauses he's already formulated as above, a provision for his

sister seems simple. He will give her three thousand dollars just as he gave his clerk one hundred dollars, and there's an end of it, so he assures himself. But wait a bit. Remember that all these legacies are payable before John's family comes in. If John should die, with a net estate consisting of a diamond scarf pin, a hundred-dollar bill and three thousand dollars more, his partner, his clerk and his sister would get everything he left. This has happened more than once — it has happened frequently. So the wise John provides as follows:)

3. Out of the residue of my estate I give to my sister Frances Amelia a sum of money equal to one-fifth of such residue, which sum in no event, however, shall exceed three thousand dollars.

(Now he's all right, for if, at death, his net estate be only three thousand dollars, his sister gets six hundred dollars, and his family twenty-four hundred dollars. If he leave fifteen thousand dollars — or even twenty-five thousand or even more — then sister gets her three thousand dollars as originally planned, and family get the rest. The importance of this precaution cannot be overestimated — in fact, it is one that occurs rarely to the lawyer when he draws his client's will. The tendency, both of the lawyer and his client, is to believe that the prosperous client will always be prosperous — that the situation at death will be the same as it is at the date of the execution of the will. The writer recalls with vivid-

How Cousin Bill Got It All

ness the case of a testator worth a quarter of a million, who left a second cousin twenty-five thousand dollars. That sum would have supported the testator's family. At death the entire estate rounded up to a net figure not exceeding twenty thousand dollars. The second cousin took it all, in the face of a wife and family absolutely destitute. The testator, in his business troubles, never thought about the will he had tucked away — he remembered that he had left the bulk of his estate to his family — he forgot the small legacy to Cousin Bill. Therefore, be careful, John.)

If His Legatee Die First— What Becomes of the Legacy?

It now occurs to John that his sister Frances Amelia may die before he does. If so, and he doesn't care about otherwise disposing of

the three thousand dollars, let him remain silent, and the legacy will fall back into his estate. But he has a nephew, son of his dead brother. John doesn't care anything about this nephew, but he knows that his sister Frances Amelia does. Personally he doesn't want to give this boy anything — and he's through with legacies, anyway. But, being a thinking person, John figures out that the boy may as well get this three thousand dollars if John's sister doesn't live to get it. A careful draftsman, preparing a will and understanding the uncertainty of lives and deaths, usually provides for unseen contingencies — but he's particular about the way he does it, and John must be particular, too. So John adds to

Clause 3, above, this little joker. Scan it carefully:

In the event, however, that my said sister Frances Amelia shall die before my death, then I give said legacy to my nephew Alexander.

(This clause is a very useful and oft-used clause. It is added to very many devises and bequests, as well as trusts, of widely varying natures. It is added to avoid the necessity of redrafting and executing a will anew in the case of a relative or friend. But why the use of the words "before my death"? For a very good reason. Under some circumstances, considering the language used in some wills, the words "shall die," standing alone, might be claimed to mean death at *any* time, even *after* the death of testator. In

the simple clause above cited, were the words "before my death" eliminated, no question would arise — the law presumes that the testator meant a death before his own; in the case of life estates, and certain trust provisions, a very different rule prevails. Under *Clause 3*, if she survive John by one instant only, the three thousand dollars belongs to the sister and to her estate; if she die one instant before John succumbs, the nephew Alexander gets it.)

Now John proceeds:

4. To my wife Jane I give the house and lot in which we now reside, No. 1 Boulevard Terrace, Borough of Manhattan, for and during the term of her natural life; and upon her death I devise the same to my lawful issue who may survive me, share and share alike, and their heirs forever.

This clause is plain enough. The time of the wife's death makes no difference, whether it happen before or after his. If she die before he does, then at his death his lawful issue come into enjoyment of the homestead at once. If she survive him, the children (who nevertheless during her life have had a vested interest) do not enjoy the same until she dies.

The After-born Child

(Let us remark, parenthetically again, upon another phase. John Doe may make his will, we'll say, before he has any children at all. Or he may make his will, we'll say, after three children have been born, but before the fourth has come into existence. What is the right of this after-born child? There is a popular idea that the birth of a child after the making

of a will absolutely, in and by itself, nullifies and revokes the will. This is not the law. The rule is that where a child is born after the making of a will, that child takes exactly the same interest in his parent's estate as he would have taken had no will been made. To illustrate, take an extreme case. Assume that John, a resident of New York, having a wife and one child, makes a valid will by which he disposes of an estate of one hundred and three thousand dollars, giving one hundred thousand dollars to charity, one thousand to his wife, two thousand to his child. Assuming the will to be valid, that wife and *that* child get those sums, no more. But, after making this will, John has a second child — and fails to

change his will. *This* child would take the same share that the law would give it had John died without a will. That share would be one-third of the entire personal estate, and one-half the entire real estate, subject, of course, to the widow's right of dower. Net result, in the case of personalty: the after-born child would get more than thirty-four thousand dollars, the other child approximately two thousand dollars, the wife approximately one thousand dollars, the charity the balance. Perceive, therefore, that this after-born child merely plucks out of the estate that share to which it would have been entitled had John died without a will — as to the rest of the provisions, the will stands *pro rata*. The reason for the rule is

that the law will assume that the testator, when he drew his will, could not have had in contemplation this after-born child — and it will not assume that he desired to deprive such child of its inheritance. To put it dramatically, a testator might hate all children, particularly his own — and yet this belated youngster might come along and woodbine-twine itself about John's gnarled affections — who can tell?)

The Residuary Clause

Let us go further: John now disposes of the residue of his estate — which includes everything that he has not already devised or bequeathed — about as follows:

5. All the residue of my estate real and personal I devise and bequeath unto my wife and my lawful issue who may survive me, in the following proportions: One-

third share thereof to my said wife, and her heirs and assigns forever; two-thirds thereof to my lawful issue, share and share alike, their heirs and assigns forever.

Or, he may want to go in for a trust. Here be careful, John. Trusts are the rocks that lawyer's fees are split on — fifty per cent of the estate frequently going to the lawyers on one side, and the balance to the lawyers on the other. But John may safely perpetrate the following (in lieu and stead of the foregoing clause):

5. All the residue of my estate real and personal I devise and bequeath to my executor hereinafter named, his heirs, and assigns, in trust nevertheless, to manage, invest and keep the same invested, and to collect the rents, interest and income thereof for and during the life of my wife Jane, and to pay therefrom to my said wife

Jane, for and during her natural life, all the net rents, interest and income thereof in quarter-yearly payments; and upon her death to pay, divide and distribute the principal of such residue to my lawful issue who may survive my said wife Jane, share and share alike, for their own use and benefit forever.

This is a simple and safe form of trust — there are many other kinds. There are as many forms of trust provisions as there are hairs upon the head, or sands upon the seashore.

A Codicil

Once he has executed his will, John Doe cannot change or correct it, without executing an entire new will, or else a codicil. The latter instrument is in form a will, but is usually used for the purpose of some single change, or to avoid the necessity of redrafting

and re-executing the entire will. Such codicil would start as follows:

I, John Doe, make the following codicil to my last will and testament:

1. I hereby reaffirm all the provisions of my said last will, except in the following particulars:

2. I hereby revoke the legacy, therein provided, of one hundred dollars to my clerk Wm. B. Pound.

Etc., etc.

A codicil, being in itself a will, must be executed with the same formalities as is the will itself. It is wise to annex it to the will, but it is not at all necessary. It will be probated with the will itself.

Put Not Your Trust in Princes

John has another trouble on his hands — the selection of his executor (and possibly trustee). An executor is a trustee — but the term trustee is used the more frequently where the will contains

a trust or trust provisions continuing during the life of a beneficiary or the minority of children—and the executor is usually named as the trustee under such provisions. The selection of these fiduciaries is one of the most difficult subjects with which John has to cope. Other things being equal, it is always a safe plan, and a fair one, to make the principal beneficiary or beneficiaries the executor or executors of his will. If John leave his entire estate to his wife outright, she is his logical executor — she cannot cheat anybody but herself; if to his wife and children (the latter being adult) he might name them all. Of course, this latter method has its dangers and its inconveniences — too many cooks sometimes spoil the broth —

on the other hand, a single one is like to make away with the joint — even unwittingly. A man may make his wife the executor of a one-hundred-thousand-dollar estate, and she, good woman, well meaning but unbusinesslike, a dupe, a spendthrift, may find herself penniless in a few years after his death. Children's rights in an estate may be slaughtered by a gentle, loving mother. If John Doe leave fifty thousand dollars to his wife and fifty thousand dollars to his children, and make his wife executor, he runs, frequently, a greater risk than had he entrusted his all to a stranger with a holy fear of prison bars implanted in his soul. The law will prosecute the stranger, energetically assisted by the wife and

Good Wives May Not Make Good Trustees

children. But who will prosecute the mother in like case? The children are helpless — they stand in the presence of a calamity which has deprived them of their patrimony, and without the slightest means of redress.

John's Problem

Shall John, then, choose as his executor some old friend, or, say, his partner — shall he choose his lawyer?

John reads fiction — he attends the drama. And invariably the bespectacled, gray-haired trustee — the individual — is featured; the benign, soothing, helpful, careful, upright soul — the family lawyer, the personal counsel, the adviser. His day, good man, has passed. It may safely be averred that there are more honest men to-day than there ever were — that

ideals are higher. Well, so is the cost of living. Men must be honest or they can't get along — but, for the same good reason, they've got to live. And most of 'em look good. Staunch, true, careful men are on all sides of John Doe — but he doesn't know how to pick 'em. Their records are clean — there's nothing against any of them.

True. For just so long as a man remains within the borders of the State, and just so long as he's alive, he probably will make a good executor. You can only spot a bad one after he's absconded or when he's dead. Then it's too late. And the closer friend he's been, the less inclined is John's family to go after him — or to taint his memory. Probably he's

been merely careless, unwise, weak, and nothing more. But that doesn't get back John's estate — it's gone.

Can The Trustee Trust Himself?

A trust is a perilous thing — as perilous for the trustee as it is for the beneficiary. Can the trustee trust himself — who knows?

John Doe will make his wife his executor if he can trust her — he will make his children his executors if he can trust them. But he will never, if he be wise, make his lawyer or his friend his executor, — and to-day he doesn't do it.

The writer of this little book holds no special brief for trust companies. They exist, not for the benefit of the health of their officers — they exist to make money. No testator need imagine they are philanthropists,

other than in so far as they may serve others well in serving themselves well. But the trust company doesn't die — it doesn't abscond. And it must pay for its mistakes, its carelessness, its negligence, which the individual executor too often cannot do.

What A Trust Company Gets

The fees of an executor and trustee are regulated by law, and the trust company can get no more than can the individual. Further, it cannot get double or treble fees — sometimes allowed in large estates where there are two or three executors. The trust company has gone into the business of being an executor and trustee because it has the facilities necessary to transact the business, and because it can transact the business and assume the responsibility, and make

money out of the fees allowed by law. John's friend or John's lawyer — particularly the latter — would like to have the job (if John is rich enough) in order to make money out of the fees allowed by law. But the trust company is safe. Is John's wife, child, lawyer, friend? That is uncertain, problematical. A lawyer or a friend, who can become the trustee of a large estate, usually wants the job — it means money to him, legitimate money. He will earn it — the money that is his by right; his fees, commissions. But what will he do with the rest of John's money — does he even know himself? And even if *he* be sure, can John Doe afford to take the chance?

Lawyers Often Fail to Leave Wills

It has been suggested that John Doe sidesteps making his will because of the expense. But he sidesteps it for other reasons. Death is a happening never contemplated, and never imminent.

There is always plenty of time to prepare for death — and wills and death go together. Hence John Doe, failing woefully to realize the importance of the thing, delays it. He may seek life insurance eagerly; but he is apathetic about his will.

John Doe is not alone in this. It is a notorious fact that lawyers — the very class that understands the necessity of the thing — frequently fail to leave wills. It is so easily done that it is often never done.

John Doe is in good company if

he fail to make his will. It is a very human weakness, that failure; but that failure may constitute a serious mistake.

If he acquire riches, a will then may be desirable; but it is not essential. There are just as many family fights with a will as without one. If he thinks wills belong exclusively to big estates, he suffers under grievous error.

If he die poor, he needs one mighty bad.

A word in John's ear: Better have a lawyer draw your will. The simple forms herein may suit you. But if you come to vary them, you enter unknown territory. An ounce of prevention is worth a pound of cure.